



## ILLINOIS COMMERCE COMMISSION

March 31, 2003

Department of Transportation, State of Illinois, for an on behalf of the  
People of the State of Illinois,  
Petitioner,

Vs.

Maytag Corporation, f/k/a/ Chicago Pacific Corporation, Chicago Rail  
Link and any and all Unknown Owners Generally,  
Respondents.

T03-0028

Petition for approval of the taking or damaging of certain properties owned  
by a public utility in Cook County, Illinois, by exercising the right of eminent  
domain. Parcel No. OER0028TE.

Mr. John R. Ashenden  
Special Assistant Attorney General  
33 N. LaSalle St., Ste. 2600  
Chicago, IL 60602

Dear Mr. Ashenden:

Receipt is acknowledged of the original and three (3) copies of the Petition filed March 31,  
2003 in the above matter.

Processing and Information Section

kl

cc: Mr. James Easterly/Jeff Harpring, IDOT  
Mr. Mark A. Piotrowski, Chicago Rail Link  
Mr. Walter S. Kos, Cook County

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

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Illinois Commerce Commission  
RAIL SAFETY SECTION

DEPARTMENT OF TRANSPORTATION,  
STATE OF ILLINOIS, for an on behalf  
of the People of the State of Illinois,

Petitioner,

vs.

MAYTAG CORPORATION, f/k/a CHICAGO  
PACIFIC CORPORATION, CHICAGO RAIL  
LINK and any and all UNKNOWN OWNERS  
GENERALLY,

Respondents.

Petition for approval of the taking or  
damaging of certain properties owned by  
a public utility in Cook County, Illinois,  
by exercising the right of eminent domain.

ICC CASE NO.: 703-0028

PARCEL NO: OER0028TE

JOB NO: R-90-027-01

**PETITION FOR APPROVAL TO ACQUIRE A  
TEMPORARY EASEMENT TO PROPERTY**

TO THE ILLINOIS COMMERCE COMMISSION:

Petitioner, THE DEPARTMENT OF TRANSPORTATION, of the state of Illinois, a  
Department of the State Government of Illinois, by Lisa Madigan, Attorney General of the State of  
Illinois, and John R. Ashenden, Special Assistant Attorney General, pursuant to Section 102 of the  
Eminent Domain Act of Illinois (735 ILCS 5/7-102)(West 2000), requests approval of the Illinois  
Commerce Commission for the imposition of a temporary easement for certain properties owned by

The Maytag Corporation, f/k/a CHICAGO PACIFIC CORPORATION, successor to the CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD COMPANY, (the "Railroad"), a public utility subject to the jurisdiction of the ILLINOIS COMMERCE COMMISSION.

1. Under articles 2 and 4 of the Illinois Highway Code (605 ILCS 5/2-101;5/2-220), and §§5/4-101 through 5/4-512, West 2000), Petitioner is engaged in the widening and reconstruction of FAP 344 (127th Street) at IASIS Railroad west of 127th Street.

2. Under the Illinois Highway Code, FAP 344 (127th Street) is a part of and included in the *State Highway System*.

3. Section 4-501 of the said Illinois Highway Code (605 ILCS 5/4-501, West 2000) provides:

"The Department, or its name, or any country may acquire the fee simple title, or such lesser interest as may be desired, to any land, rights or other property necessary for the construction, maintenance or operation of State highways, or necessary for locating, relocating, extending, widening or straightening any State highway, or necessary for locating, relocating, extending, widening or straightening an existing street or for laying out, establishing or opening a new street within the corporate limits of any municipality, or necessary for any other purpose or use contemplated by this Code by purchase or by the exercise of the right of eminent domain under the eminent domain laws of this State and the Department shall not be required, in any case, to furnish bond."

4. The widening and reconstruction, together with the modernization of FAP 344, is a public improvement project. The improvement project constitutes a public purpose, namely roadway reconstruction and widening of FAP 344 at the IASIS Railroad west of 127th Street in Cook County.

5. The Railroad is subject to the jurisdiction of the Commission.

6. The Railroad is title holder to certain real property, said property being located in Cook County, the legal description of which is attached hereto and marked as Exhibit A. This real

property is located along FAP 344 (127th Street) at the IASIS Railroad west of 127th Street in Cook County and the Petitioner has deemed it necessary to improve the roadways, structures and the bridge to improve vehicular traffic and safety of the motoring public. A copy of the Department's Plat of Highways depicting the property sought to be acquired by the Petitioner is shown on Exhibit B attached hereto.

7. Petitioner has been authorized to acquire a temporary easement to the property for public highway purposes, together with the right to permit others to use or operate, maintain, alter, improve and remove other facilities and structures including, but not limited to, underground lines, fiber optics, wire, or other means of electricity, pipes and conduits, upon and beneath the surface of the said premises, and overhead wires, cables, and poles or other structures for the support of such facilities and structures to Parcel OER0028TE, legally described in Exhibit A, and it is necessary for Petitioner to acquire this temporary easement for the above-described highway construction and improvement project in Cook County for the use of the People of the State of Illinois. This easement shall be in effect for a period of three (3) years from the date of vesting or until completion of construction operations, whichever occurs first. The said work is to be done in a good workmanlike manner.

8. The terms of the compensation to be paid by the Petitioner for the property hereinafter described cannot be agreed upon between the Petitioner and the Railroad although Petitioner has attempted to effect such an agreement, or the Petitioner has not otherwise been able to acquire the temporary easement to the property. Petitioner, therefore, is authorized and desires to proceed to acquire said temporary easement to the property under the eminent domain laws of this State.

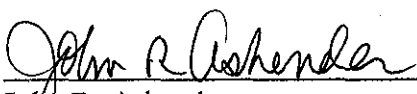
9. Section 7-102 of the Code of Civil Procedure (735 ILCS 5/7-102) requires Petitioner

to obtain the approval of the Commission prior to the imposition of the temporary easement or damaging of the Railroad's property described in Exhibit A.

WHEREFORE, Petitioner, THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS, requests the Commission to approve the taking or damaging of the above-described real property of the Railroad by the exercise of the right of eminent domain.

THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF ILLINOIS, for and on  
behalf of the People of the State of Illinois

By: LISA MADIGAN  
Attorney General of Illinois

By:   
John R. Ashenden  
Special Assistant Attorney General

John Ashenden  
Special Assistant Attorney General  
33 North LaSalle Street, Suite 2600  
Chicago, Illinois 60602  
312/739-1100

**AFFIDAVIT OF SERVICE**

I, John R. Ashenden, being first duly sworn, on oath, state that I served the foregoing Petition upon the following addresses at their respective addresses set forth:

**VIA CERTIFIED MAIL AND U.S. MAIL**

Illinois Commerce Commission  
527 East Capitol  
Springfield, Illinois 62708  
(original and three copies)

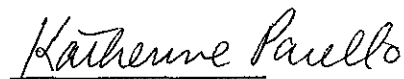
Maytag Corporation  
f/k/a Chicago Pacific Corporation  
403 West Fourth Street North  
P. O. Box 39  
Newton, Iowa 50208-0039

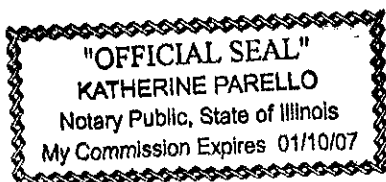
Chicago Rail Link  
c/o Terminal Superintendent - Chicago  
2728 E. 104<sup>th</sup> Street  
Chicago, Illinois 60617

by enclosing a copy of said Petition, together with Exhibits A and B to said Petition, in an envelope correctly addressed with sufficient first class postage affixed thereto, sealed and deposited said envelopes in the U.S. Mail Chute at Chicago, Illinois, before 5:00 p.m. on March  
28, 2003.



SUBSCRIBED and SWORN to  
before me this 28th  
date of March,  
2003.

  
Notary Public



28TE



Route: F.A.P. 334 (127<sup>th</sup> Street)  
Section: 0101.1 BR-2  
County: Cook  
Job No.: R-90-027-01  
Parcel: OER0028TE  
Stations: 10+981.096 through  
11+014.448  
Owner: Maytag Corporation formerly  
known as Chicago Pacific  
Corporation successor to The  
Chicago, Rock Island and  
Pacific Railroad Company  
Index #: 25-31-500-001

That part of the 100 foot wide Right of Way of the Main Line of the Former Chicago, Rock Island and Pacific Railroad Company located in the Northwest Quarter of Section 31, Township 37 North, Range 14 East of the Third Principal Meridian, bounded and described as follows: Beginning at the intersection of the East Right of Way line of the Chicago, Rock Island and Pacific Railroad Right of Way and the South Right of Way line of 127<sup>th</sup> Street also being the Northwest corner of Lot 1 in the Subdivision of Lots 1 to 6 and 85 to 91 inclusive in O.W. Burke's Subdivision, being a subdivision of the Northeast Quarter of the Northwest Quarter, East of the Chicago, Rock Island and Pacific Railroad, in Section 31, Township 37 North, Range 14 East of the Third Principal Meridian; thence South 15 degrees 03 minutes 51 seconds West along the said East Right of Way line, 16.73 feet; thence South 88 degrees 06 minutes 53 seconds West, 104.54 feet to a point on the West Right of Way line of the Chicago, Rock Island and Pacific Railroad Right of Way; thence North 15 degrees 03 minutes 51 seconds East along said line, 16.73 feet to a point on the South Right of Way line of 127<sup>th</sup> Street; thence North 88 degrees 06 minutes 53 seconds East along said Right of Way line, 104.54 feet to the Point of Beginning, in Cook County, Illinois.

Said Parcel contains 0.038 acres, more or less.

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MAY 24 2002  
PLATS & LEGALS